

JOHN F. KERRY, MASSACHUSETTS, CHAIRMAN  
CHRISTOPHER S. BOND, MISSOURI, RANKING MEMBER

CARL LEVIN, MICHIGAN  
TOM HARKIN, IOWA  
JOSEPH I. LIEBERMAN, CONNECTICUT  
PAUL D. WELLSTONE, MINNESOTA  
MAX CLELAND, GEORGIA  
MARY LANDRIEU, LOUISIANA  
JOHN EDWARDS, NORTH CAROLINA  
MARIA CANTWELL, WASHINGTON  
JEAN CARNAHAN, MISSOURI

CONRAD BURNS, MONTANA  
ROBERT F. BENNETT, UTAH  
OLYMPIA J. SNOWE, MAINE  
MICHAEL ENZI, WYOMING  
PETER G. FITZGERALD, ILLINOIS  
MIKE CRAPO, IDAHO  
GEORGE ALLEN, VIRGINIA  
JOHN ENSIGN, NEVADA

PATRICIA R. FORBES, MAJORITY STAFF DIRECTOR AND CHIEF COUNSEL  
EMILIA D'SANTO, REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

WASHINGTON, DC 20510-6350

February 15, 2002

BY FACSIMILE  
ORIGINAL BY U.S. MAIL

The Honorable Charles O. Rossotti  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, DC 20224

Mr. Joseph Kehoe  
Commissioner  
Small Business/Self-Employed Division  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, DC 20224

Dear Commissioners Rossotti and Kehoe:

At my request, the General Accounting Office (GAO) recently conducted a review of the Internal Revenue Service's (IRS) efforts to help small businesses comply with their employment tax obligations. According to the attached GAO report, "IRS' Efforts to Improve Compliance with Employment Tax Requirements Should be Evaluated" (GAO-02-92), the vast majority of employers properly withhold and deposit employment taxes in a timely fashion. A small group of employers, however, fall behind in their obligation. For them, the amount of unpaid taxes, when coupled with the associated interest and penalties, can grow out of control and threaten their very survival.

According to IRS data for Fiscal Year 2000, delinquent employers accounted for approximately \$5.0 billion in unpaid employment taxes out of the total \$1.3 trillion that the IRS collected in these taxes. I was pleased to learn that the IRS is able to notify employers who become delinquent within about 5 weeks of their filing the employment tax return, IRS Form 941. In contrast, the GAO found that the agency takes 14 to 28 weeks to notify an employer when no Form 941 is filed.

Since interest and penalties begin to accrue from the date that the taxes were due, not from the date that the form is filed, it is critical for the agency to shorten the time it takes to notify delinquent employers who fail to file the proper quarterly employment-tax return. These

taxpayers face a failure-to-deposit penalty that can accumulate up to 15% of the delinquent amount and a late-payment penalty that can cumulate to 25%. In addition, they are subject to an additional penalty for failure to file a return, which can accumulate to 22.5%. In short, there is a potential enormous in penalties even before factoring in the interest on the delinquent taxes.

In light of the significance of the penalties, time is clearly of the essence, especially when it comes to identifying the non-filers and helping them to return to compliance. Failure to do so only increases the chances that the business will fail before the IRS can collect any of the taxes due. The result in a loss of a small business and the jobs it provides as well as tax revenues to the Federal treasury.

The GAO identified four programs that the IRS has developed to intervene with employers to help prevent employment-tax delinquencies and the pyramid effects of the penalties and interest. The programs, which are described in detail in the GAO report, include: the Mentoring and Monitoring program, the Federal Tax Deposit (FTD) Soft Letter program, the ABC's of FTD program, and the FTD Alert. The GAO found that these programs are in various states of use, and that the IRS has not sufficiently evaluated the effectiveness of these programs. In addition, the GAO found that the IRS' modernization efforts do not include any programs specifically designed to improve notification to employers with employment tax delinquencies.

In light of these findings, I urge you to implement the GAO's recommendations. The Small Business/Self-Employed Division (SB/SE) must develop and implement a plan for evaluating the effectiveness and efficiency of the existing early intervention programs as well as future plans to improve compliance in this area, especially through the SB/SE's new Taxpayer Education and Communications section.

In addition, as you work to modernize the agency's technological capabilities, please give priority attention to improvements for identifying employers that fail to file employment-tax returns. The GAO report indicates that the IRS currently processes timely filed returns before it begins to identify non-filers. For businesses that have a history of filing timely returns, it should be possible to identify cases in which they fail to file and then intervene before the delinquency spirals out of control.

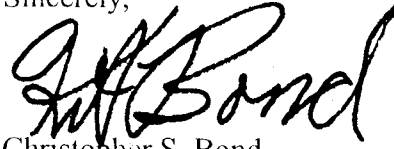
Notwithstanding the improvements identified in the GAO's report, you both have made significant headway in modernizing the agency to meet its dual mission of collecting taxes and providing top-quality customer service. I strongly support and applaud your efforts. I hope the GAO's findings and recommendations concerning employment-tax compliance will be helpful in highlighting an area needing additional attention.

Thank you for your attention to this matter. I would appreciate your providing me by March 15, 2002, with an outline of the steps you will take to address these issues, including a time table for implementing the GAO's recommended evaluation of the early intervention program. If you have any questions or would like to discuss this matter in greater detail, please

The Honorable Charles O. Rossotti  
Mr. Joseph Kehoe  
Page 3

do not hesitate to contact me or have your staff contact Mark Warren, my Tax Counsel on the Committee on Small Business and Entrepreneurship, at 202/224-

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive style.

Christopher S. Bond  
Ranking Member

Attachment